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COMPREHENSIVE REVIEW OF THE WHOLE QUESTION OF PEACEKEEPING OPERATIONS IN ALL THEIR ASPECTS

Letter dated 19 February 1998 from the Permanent Representatives of Poland and Ukraine to the United Nations addressed to the Secretary-General

We have the honour to transmit herewith the text of the Agreement between Ukraine and the Republic of Poland in the matter of creating a joint military unit to participate in international peace and humanitarian operations under the auspices of international organizations, signed at Warsaw on 26 November 1997 by the Minister of Defence of Ukraine and the Minister of National Defence of the Republic of Poland.

We should be grateful if you could have the text of the present letter and its annex circulated as an official document of the fifty-third session of the General Assembly, under item 86 of the preliminary list.

(Signed) Eugeniusz WYZNER
Ambassador Extraordinary
and Plenipotentiary
Permanent Representative of
the Republic of Poland to
the United Nations

(Signed) Volodymyr YEL'CHENKO
Ambassador Extraordinary
and Plenipotentiary
Permanent Representative
of Ukraine to the United
Nations

* A/53/50.

ANNEX

Agreement between Ukraine and the Republic of Poland in the matter of creating a joint military unit to participate in international peace and humanitarian operations under the auspices of international organizations, signed at Warsaw on 26 November 1997

Whereas Ukraine and the Republic of Poland, hereinafter referred to as Parties hereto are guided by the goals and principles delineated in the Charter of the United Nations as well as the resolutions set forth in the documents of regional organizations concerning multilateral cooperation to maintain peace and international security; and

Whereas they are executing that which was resolved in Articles 3 and 45 of the Treaty on Good-neighbourliness, Friendly Relations and Cooperation between Ukraine and the Republic of Poland, signed at Warsaw on 18 May 1992;

The Parties hereto have agreed to the following:

Article 1

1. The Parties hereby establish a joint military peace battalion, hereinafter referred to as the "Battalion".

2. A separate agreement executed between the ministries of defence of the Parties hereto shall specify the structure of the Battalion, how many troops it will have, how it will be trained, commanded and equipped and the extent of participation of the Armed Forces of Ukraine and the Armed Forces of the Republic of Poland.

3. The ministries of defence of the Parties hereto shall designate separate detachments along with equipment from the structure of the armed forces in each of the countries, which detachments shall be incorporated in the composition of the Battalion. Until such time that they are made subordinate to joint command, they will remain within the structure of the armed forces of that country to which they belong.

4. The Ukrainian portion of the Battalion shall be stationed on a permanent basis within Ukraine; the Polish portion of the Battalion shall be stationed on a permanent basis within the Republic of Poland. The location of the Battalion's base when preparing for actions in the area of operation in which the Battalion is going to participate will be agreed upon by the ministries of defence of the Parties hereto on a case-by-case basis.

Article 2

1. The Battalion may participate in international peace operations:

(a) Conducted by the United Nations whose mandate has been approved by the Security Council of the United Nations as well as those conducted by other international organizations responsible for maintaining peace and international security in compliance with the provisions of Chapter VIII of the Charter of the United Nations;

(b) Conducted by multinational forces established with the consent of the Security Council of the United Nations.

2. The Battalion may participate in international peace operations of the forces and organizations enumerated in paragraph 1 of this article provided that they are being conducted for the purpose of doing the following:

(a) Preventing the outbreak of international and domestic conflicts;

(b) Resolving or creating conditions to resolve international and domestic conflicts with the consent of the parties to the conflict at hand;

(c) Providing humanitarian assistance to people who have suffered as a result of international and domestic conflicts;

(d) Providing assistance to countries in liquidating the effects of conflicts;

(e) Removing threats to peace, circumstances where peace is breached, acts of aggression or resolving international and domestic conflicts.

3. Tasks performed by the Battalion shall be derived from the resolutions of the international organization which has undertaken a given operation and shall be subject to approval by the proper bodies of the Parties hereto.

4. The Battalion's participation in international peace operations shall be effected by directing it and making it subordinate to the bodies delineated in the mandate of the proper international peace organization after both Parties hereto agree to undertake such operation.

5. The Battalion shall be withdrawn from operations by virtue of a decision handed down by the proper bodies of the Parties hereto, where the rendering of such a decision by the proper body of even just one of the Parties hereto shall cause the entire Battalion to be withdrawn.

## Article 3

1. The Battalion Command shall be composed of the Commander of the Battalion and the Chief of Staff - the Battalion First Deputy Commander subordinated to the Commander of the Battalion. The duties of the Battalion Commander shall be discharged on a rotating basis by an officer of the Armed Forces of Ukraine and an officer of the Armed Forces of the Republic of Poland, where the duties of the Chief of Staff in the Battalion are discharged by an officer of the other Party's armed forces. The officers listed above are appointed to these posts after agreement is reached by the ministries of defence of the Parties hereto.

2. Until such time that the individual national contingents of the Battalion are subordinated to the Command mentioned in paragraph 1 of this article, they are subordinated to the command of the armed forces of the Parties to which they belong.

3. The Battalion Commander is subordinate to the following:

(a) The command of the armed forces of the Party to which it belongs when the Battalion is being trained;

(b) The command of the armed forces of the Parties they determine on a case-by-case basis when jointly adapting and preparing the Battalion for actions in a region where an international peace operation is being conducted;

(c) The body specified in article 2, paragraph 4, of this Agreement while maintaining constant contact with the ministries of defence of the Parties for the duration of their participation in international peace operations.

4. The Battalion's official language shall be English. The personnel of the Battalion may also use Ukrainian or Polish.

Article 4

1. The Battalion Commander and other people in charge in the Battalion shall have the right to issue orders to subordinate soldiers regardless of whether they are members of the Armed Forces of Ukraine or the Armed Forces of the Republic of Poland. These soldiers shall be obliged to discharge the commands received provided that they are not in conflict with the internal law of the country of which they are citizens and provided that they are related to the goals for which the Battalion was founded.

2. The right to issue the orders mentioned in paragraph 1 of this article shall be in force when the Battalion is undergoing joint training, preparing for action in a region of operation in which the Battalion is going to participate and for the duration of participation in such operation.

3. The use of firearms and means of direct force by the Battalion's soldiers in the region where an international peace operation is being conducted and in which the Battalion is participating is permissible in those instances as defined by the international agreements pertaining to such operation upon the order given by the proper commander.

Article 5

1. The soldiers of the Battalion's national contingents are performing active military service in compliance with the internal legislation of the country in which they are citizens.

2. In compliance with the internal legislation of the country in which the soldiers are citizens, the people in charge from their nation shall exercise

disciplinary authority over the soldiers of the relevant national contingent of the Battalion. The soldiers of the Battalion's national contingents shall bear disciplinary and criminal responsibility in compliance with the internal legislation of the country of which they are citizens while the proper bodies of that country shall have jurisdiction over these soldiers, save for paragraph 3 of this article.

3. If an act taken by a soldier is not related to the soldier's official duties, the said soldier shall bear criminal liability in compliance with the internal legislation of the country in which the said act was perpetrated and the proper bodies of that country shall have jurisdiction over such a soldier.

4. If an act taken by a soldier is related to the soldier's official duties:

(a) The military authorities of the sending country shall have the primary right to exercise jurisdiction over that soldier in relation to offences committed solely against the property or security of that country and offences committed solely against the person or property of another member or civilian personnel of the armed forces of that country;

(b) The authorities of the receiving country shall have the primary right to exercise jurisdiction over that soldier in relation to any other offences.

## Article 6

1. A separate agreement shall specify the status and conditions for the presence of Ukrainian soldiers on Polish soil and the status and conditions for the presence of Polish soldiers on Ukrainian soil in connection with discharging their official duties.

2. A separate agreement concluded with the organization listed in article 2 of this Agreement shall specify the manner whereby the soldiers of this Battalion are to be sent to a region in which an international peace operation in which the Battalion is participating is being conducted as well as their status and the conditions for their presence there.

## Article 7

1. Separate training of the soldiers in the national contingents of the Battalion shall be conducted according to a uniform programme in the places of their permanent location and in national training facilities.

2. Joint training sessions will be conducted for the Battalion's soldiers according to agreed-upon plans and programmes.

3. A separate agreement executed by the ministries of defence of the Parties hereto shall specify the detailed principles of and the manner for protecting the Battalion's safety during joint training as well as during its preparations for actions in an international peace operation in which it is to participate.

Article 8

1. The information considered to be classified by the bodies of the Parties hereto which is conveyed to the other Party in connection with the execution of this Agreement is subject to protection in compliance with the binding internal legislation of the country of the Party which received such information while treating the information with the degree of secrecy that is equivalent to the degree of secrecy of its own information. Neither Party hereto has the right to disclose any such information whatsoever to any third party without the written consent of the Party which conveyed such information.

2. The detailed principles and methods for securing the information mentioned in paragraph 1 of this article shall be agreed upon on a case-by-case basis by the proper military bodies of the Parties hereto.

Article 9

1. The appropriate bodies of the armed forces to which the Battalion's national contingents belong are responsible for supplying them with armaments, military equipment, ammunition and materials, for ensuring that they are provided with living and financial conditions for the duration of training and for preparing them to act on the territory on which an international peace operation is being conducted in which the Battalion is participating.

2. The detailed principles and the methods for resolving the issues enumerated in paragraph 1 of this article shall be agreed upon individually by the proper bodies of the armed forces of the Parties hereto for each specific case.

3. A separate agreement shall specify the principles for providing logistic support (in regard to materials, technical matters, transportation, housing, medical care and others) and for organizing the Battalion's communications in the region in which an international peace operation is being conducted and in which it is participating, along with other detailed matters related thereto.

Article 10

1. The Battalion is funded by the Parties in proportion to the sizes of their national contingents, as specified in conformity with paragraph 3 of article 1.

2. The bodies of the armed forces to which the Battalion's national contingents belong shall be responsible for funding them during training and preparations to participate in an operation in which the Battalion is to participate.

3. The funding of the Battalion's national contingents during an international peace operation in which the Battalion is taking part shall incorporate that which has been determined by the international organization which is conducting the operation.

4. A separate agreement executed between the ministries of defence of the Parties thereto shall specify the detailed principles for and the methods whereby the Battalion is to be financed, including insurance for the people involved, armaments and military equipment and the financial settlements on training the Battalion and providing it with supplies as well as the expenditures related to the presence of the Battalion's Ukrainian contingent on Polish soil and the presence of the Battalion's Polish contingent on Ukrainian soil when discharging their official duties and related to the Battalion's actions in the region where an international peace operation is being conducted in which the Battalion is participating.

Article 11

1. The bodies of the armed forces to which a soldier belongs who caused damage or whose citizen being a third party hereto caused the said damage shall bear liability for providing compensation for damages against a soldier or the property of one of the Battalion's national contingents.

2. The bodies of the armed forces to which a soldier belongs who caused damage to third parties or their property shall bear liability for providing compensation.

3. The provisions of paragraphs 1 and 2 of this article do not exclude the recourse liability of soldiers and third persons as derived from the internal legislation of the country in which they are citizens.

4. A separate agreement executed between the ministries of defence of the Parties hereto shall specify the scope of liability for damages mentioned in paragraphs 1 and 2 of this article and the detailed principles and manner for proceeding to set the amount of damages, to disburse and refund such compensation against damages caused.

Article 12

The Parties hereto hereby establish the Ukrainian-Polish Working Group composed of the representatives of the Ministry of Defence of Ukraine and the Ministry of National Defence in the Republic of Poland to handle all matters related to the establishment, equipment, training and operation of the Battalion on an ongoing basis. The co-chairmen of this Working Group shall be those persons appointed by each of the ministers, where each Party shall appoint one person.

Article 13

Disputes pertaining to the interpretation or execution of this A[illegible]ment shall be resolved by way of direct consultation and discussion between the Parties without turning to any external jurisdiction.

Article 14

This Agreement does not violate the rights and duties delineated in the bilateral and multilateral agreements signed by the Parties hereto with other countries and international organizations.

Article 15

1. This Agreement shall be subject to ratification by each of the Parties agreeing hereto in conformity with the provisions of its internal law, which shall be confirmed by way of an exchange of notes. This Agreement shall come into force 30 days after the latter note is received. The Parties hereto shall jointly inform the United Nations about the establishment of this Battalion.

2. Amendments and supplements in the form of protocols constituting an integral part of this Agreement may be made with the consent of the Parties to this Agreement.

3. This Agreement is executed for an indefinite period of time. It may be terminated at any time by either of the Parties hereto by giving notification. In such case the Agreement shall expire 30 days after the day when the other Party receives notification, but no earlier than the day on which the last national contingent returns to its own country from an international peace operation in which the Battalion is participating.

4. The loss of this Agreement's legal force does not breach the Parties' rights to extend claims on the expenditures on the Battalion's training, supply, preparations and actions as mentioned in articles 7, 9 and 10 of this Agreement or for compensation as mentioned in article 11 of this Agreement.

This Agreement is signed in Warsaw on this the 26th day of 1997 in two identical counterparts, where each of the said counterparts has been drawn up in the Ukrainian, Polish and English languages and where all of these texts are of equal force. If there are any discrepancies in their interpretation, the text drawn up in the English language shall be considered to be decisive.

On behalf of Ukraine:

(Signature)
Minister of Defence

On behalf of the Republic of Poland:

(Signature)
Minister of National Defence

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